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| 09/739,576 | 12/18/2000 | Paul G. Allen | 4000.2.2 | 3522 |
| 32641 | 7590 | 10/06/2004 | EXAMINER | |
| DIGEO, INC C/O STOEL RIVES LLP 201 SOUTH MAIN STREET, SUITE 1100 ONE UTAH CENTER SALT LAKE CITY, UT 84111 | | | SHANNON, MICHAEL R | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2614 | |

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/739,576

Applicant(s)

ALLEN, PAUL G.

Examiner

Michael R Shannon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2000.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☒ Claim(s) 17-19 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/12, 6/4/01, 3/12/2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 17, 18, and 19 are objected to because of the following informalities:

All three claims recite "The method" when referring to a system claim. For the purpose of a prior art rejection those claims will be understood to read "The system". Appropriate correction is required.
2. Claim 27 is objected to because of the following informalities:

Claim 27 makes reference to "The method of claim 10," however, it is understood for the purposes of a prior art rejection to read "The method of claim 26".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-7, 10-17, 19-23, and 26-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Darbee et al (US Pat. No. 6,130,726), cited by applicant.

With regards to claim 1, the claimed entertainment device is met as follows: The claimed remote control for an interactive television system is met by the remote control

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of Darbee (Figures 1 and 2). The claimed wireless receiver integrated with the remote control for receiving television program schedule information from the interactive television system is met by the IR Rx 24 and RF Rx/Tx 48 of figure 2, which serve to receive program schedule information at the remote control via IR or RF frequencies. The claimed display device integrated with the remote control for displaying the television program schedule information is met by LCD 14 of Figure 2, which serves to display the television program information.

With regards to claim 2, Darbee teaches all of that which is discussed above with regards to claim 1. Darbee further meets the claimed wireless receiver comprising a radio-frequency receiver. The claimed RF receiver is met by the RF Rx/Tx 48 of Fig. 2.

With regards to claim 3, Darbee teaches all of that which is discussed above with regards to claim 1. Darbee further meets the claimed wireless receiver comprising an infrared receiver. The claimed IR receiver is met by the IR Rx 34 of Figure 2.

With regards to claim 4, Darbee teaches all of that which is discussed above with regards to claim 1. Darbee further teaches the following: The claimed processor integrated with the remote control for generating an electronic programming guide from the television program schedule information, the electronic programming guide for display on the display device is met by the micro-controller 28 (Figure 2) and its ability to use the programming information to format and display the programming information on the LCD display (column 7, lines 43-52).

With regards to claim 5, Darbee teaches all of that which is discussed above with regards to claim 4. Darbee further teaches a programming guide having time on the

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lateral axis and channel on the vertical axis (column 9, lines 40-41). This program guide layout meets the claimed plurality of rows corresponding to channels and a plurality of columns corresponding to time slots.

With regards to claim 6, Darbee teaches all of that which is discussed above with regards to claim 4. Darbee further teaches the following: The claimed at least one indication of a television program is met by the grid display as disclosed in column 9, lines 36-48 and Figures 5A and 5B. The claimed wireless transmitter integrated with the remote for transmitting a control signal to the interactive television system in response to a user selection of a television program from the electronic programming guide is met by IR Tx 35 and RF Rx/Tx 48 of Figure 2, which both serve to send control information to the television for display of the particularly selected television channel.

With regards to claim 7, Darbee teaches all of that which is discussed above with regards to claim 6. Darbee further discloses that his remote control unit has the ability to control the selection of television content (column 2, lines 55-59). This teaching meets the claimed control signal configured to cause a television to display the selected television program.

With regards to claim 10, the claimed entertainment system is met as follows: The claimed set top box configured to provide television signals to a first display device, the set top box further configured to store television program schedule information is met by the set top box on column 8, lines 57-67, which is used to receive program guide information and broadcast content for display on a television. The claimed remote control for the set top box configured to receive the television program schedule

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information from the set top box using a wireless method, the remote control comprising a second display device configured to display the television program schedule information is met by the remote control pictured in Figures 1 and 2, which receives the program information through RF or IR receivers and utilizes the LCD screen to display the television program information to the user.

With regards to claim 11, Darbee teaches all of that which is discussed above with regards to claim 10. The claimed wireless transmitter configured to transmit the television program schedule information to the remote control is met by column 9, lines 8-13, wherein Darbee discloses the transmission of the program schedule information to the remote control via RF or IR signals.

With regards to claim 12, Darbee teaches all of that which is discussed above with regards to claim 11. The claimed wireless transmitter being one of a radio-frequency or infrared transmitter is met by the claimed RF or IR signals, as discussed above in the rejection to claim 11 and in column 9, lines 8-20.

With regards to claim 13, Darbee teaches all of that which is discussed above with regards to claim 11. The claimed wireless receiver configured to receive the television program schedule information from the wireless transmitter in the set top box is met by the IR Rx 24 and RF Rx/Tx 48 of figure 2, which serve to receive program schedule information at the remote control via IR or RF frequencies.

With regards to claim 14, Darbee teaches all of that which is discussed above with regards to claim 13. The claimed wireless receiver comprising one of a radio-frequency receiver and an infrared receiver is met by the aforementioned IR Rx 24 and

RF Rx/Tx 48 of figure 2, which serve to receive program schedule information at the remote control via IR or RF frequencies.

With regards to claim 15, Darbee teaches all of that which is discussed above with regards to claim 10. The claimed network storing a database comprising television program schedule information, wherein the set top box comprises a network interface configured to access the database and receive the television program schedule information from the network is met by column 9, lines 21-29, wherein Darbee discloses the set-top box working with a cable network and a guide database, in order to deliver the guide to the subscriber set top box over the network.

With regards to claim 16, Darbee teaches all of that which is discussed above with regards to claim 15. The claimed network being a cable network is met by the aforementioned cable network, as disclosed in column 9, lines 21-29.

With regards to claim 17, Darbee teaches all of that which is discussed above with regards to claim 15. The claimed receiving of automatic updates of the television program schedule information from the network is met by column 9, lines 14-29, wherein Darbee discloses a system that can download new schedule information at random times or automatic intervals.

With regards to claim 19, Darbee teaches all of that which is discussed above with regards to claim 15. The claimed set top box being configured to receive the television program schedule information in response to a request from the set top box is met by column 9, lines 14-29, wherein Darbee discloses the automatic intervals at which new program information is downloaded from the database.

With regards to claim 20, Darbee teaches all of that which is discussed above with regards to claim 10. The claimed processor configured to generate an electronic programming guide from the television program schedule information, the electronic programming guide for display on the second display device is met by the micro-controller 28 (Figure 2) and its ability to use the programming information to format and display the programming information on the LCD display (column 7, lines 43-52).

With regards to claim 21, Darbee teaches all of that which is discussed above with regards to claim 20. The claimed electronic programming guide comprising a plurality of rows corresponding to channels and a plurality of columns corresponding to time slots is met by the programming guide of Darbee having time on the lateral axis and channel on the vertical axis (column 9, lines 40-41).

With regards to claim 22, Darbee teaches all of that which is discussed above with regards to claim 20. The claimed electronic programming guide comprising at least one indication of a television program is met by the grid display as disclosed in column 9, lines 36-48 and Figures 5A and 5B. The claimed remote control comprising a wireless transmitter configured to transmit a control signal in response to a user selection of a television program from the electronic programming guide is met by IR Tx 35 and RF Rx/Tx 48 of Figure 2, which both serve to send control information to the television for display of the particularly selected television channel.

With regards to claim 23, Darbee teaches all of that which is discussed above with regards to claim 22. The claimed control signal being configured to cause the first display device to display the selected television program is met by the ability of the

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Darbee remote control to control the selection of television content (column 2, lines 55-59) through the EPG.

With regards to claim 26, the claimed method for providing an electronic programming guide is met as follows: The claimed step of receiving television program schedule information at a set top box is met by column 9, lines 14-29, wherein Darbee discloses the receiving of schedule information over a cable network. The claimed step of transmitting the television program schedule information to a remote control for the set top box is met by column 9, lines 7-13, wherein Darbee discloses sending the program information to the remote control. The claimed step of displaying the television program schedule information on a display device integrated with the remote control is met by the LCD screen 14 (Figure 2) and column 9, lines 36-48, wherein Darbee discloses how the program guide is displayed on the LCD to the user of the remote.

With regards to claim 27, Darbee teaches all of that which is discussed above with regards to claim 26. The claimed network storing a database comprising the television program schedule information and wherein receiving comprises receiving the television program schedule information from the network is met by column 9, lines 21-29, wherein Darbee discloses a database which stored program information and sends it to a set top box through the use of a cable network.

With regards to claim 28, Darbee teaches all of that which is discussed above with regards to claim 27. The claimed network being a cable network is met by column 9, lines 21-29, wherein a cable distribution network is disclosed (see rejection for claim 27).

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With regards to claim 29, Darbee teaches all of that which is discussed above with regards to claim 26. The claimed transmitting step being such that television program schedule information is transmitted from a wireless transmitter in the set top box to a wireless receiver in the remote control is met by column 9, lines 7-13, wherein Darbee discloses the sending of the program information from the set top box to the remote control.

With regards to claim 30, Darbee teaches all of that which is discussed above with regards to claim 26. The claimed step of generating an electronic programming guide from the television program schedule information for display on the display device is met by the micro-controller 28 (Figure 2) and its ability to use the programming information to format and display the programming information on the LCD display (column 7, lines 43-52).

With regards to claim 31, Darbee teaches all of that which is discussed above with regards to claim 30. Darbee further teaches a programming guide having time on the lateral axis and channel on the vertical axis (column 9, lines 40-41). This program guide layout meets the claimed plurality of rows corresponding to channels and a plurality of columns corresponding to time slots.

With regards to claim 32, Darbee teaches all of that which is discussed above with regards to claim 30. Darbee further teaches the following: The claimed guide comprising at least one indication of a television program is met by the grid display as disclosed in column 9, lines 36-48 and Figures 5A and 5B. The claimed step of transmitting a control signal in response to a user selection of a television program from

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the electronic programming guide is met by IR Tx 35 and RF Rx/Tx 48 of Figure 2, which both serve to send control information to the television for display of the particularly selected television channel.

With regards to claim 33, Darbee teaches all of that which is discussed above with regards to claim 32. Darbee further discloses that his remote control unit has the ability to control the selection of television content (column 2, lines 55-59). This teaching meets the claimed step of displaying the selected television program on a television in response to the control signal.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8, 18, 24, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbee et al (US Pat. No. 6,130,726), cited by applicant, in view of Klosterman et al (US Pat. No. 6,078,348), cited by examiner.

With regards to claim 8, Darbee teaches all of that which is discussed above with regards to claim 6. Darbee, however, does not expressly disclose a system in which the control signal is configured to cause a video recording device to record the selected television program. Klosterman discloses a system that can record a selected program. As can be seen in column 9, lines 30-33 and column 10, lines 28-30, he discloses a system that can record a program once that program is selected on the EPG. It would

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have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the ability to record into the system taught by Darbee, in order to allow the user more options than just tuning to a channel and the ability to set future recording times and save the program for future viewing.

With regards to claim 18, Darbee teaches all of that which is discussed above with regards to claim 17. Darbee does not expressly disclose that the automatic updates of the television program schedule information are received using a carousel technique. Klosterman discloses a system, which receives future programming information (EPG information) via a carousel broadcast (see column 8, lines 61-65). It would have been obvious to one of ordinary skill in the art at the time of the invention to receive automatic updates in a carousel technique, in order to allow for more frequent updates and availability of current schedule information.

With regards to claim 24, Darbee teaches all of that which is discussed above with regards to claim 22. Darbee, however, does not expressly disclose a system in which the control signal is configured to cause a video recording device to record the selected television program. Klosterman discloses a system that can record a selected program. As can be seen in column 9, lines 30-33 and column 10, lines 28-30, he discloses a system that can record a program once that program is selected on the EPG. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the ability to record into the system taught by Darbee, in order to allow the user more options than just tuning to a channel and the ability to set future recording times and save the program for future viewing.

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With regards to claim 34, Darbee teaches all of that which is discussed above with regards to claim 6. Darbee, however, does not expressly disclose the step of recording the selected television program in a video recording device in response to the control signal. Klosterman discloses a system that can record a selected program. As can be seen in column 9, lines 30-33 and column 10, lines 28-30, he discloses a system that can record a program once that program is selected on the EPG. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the ability to record into the system taught by Darbee, in order to allow the user more options than just tuning to a channel and the ability to set future recording times and save the program for future viewing.

7. Claims 9, 25, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darbee et al (US Pat. No. 6,130,726), cited by applicant, in view of Saitoh et al (US Pat. No. 5,237,327), cited by examiner.

With regards to claim 9, Darbee teaches all of that which is discussed above with regards to claim 6. Darbee does not expressly disclose a system in which the display device is touch sensitive, such that the television program is selected in response to a user touching an indication of the television program on the display device. Saitoh discloses a system that has a touch panel operating section including a display device for displaying an image of a plurality of operation keys thereon and an operation detecting device for detecting when one of the operation keys on the display device is depressed. It would have been obvious to one of ordinary skill in the art at the time of

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the invention to include the touch-screen capability into the system of Darbee, in order to allow for more straight-forward selection of programs and the ability for the user to interact directly with the program guide.

With regards to claim 25, Darbee teaches all of that which is discussed above with regards to claim 22. Darbee does not expressly disclose a system in which the second display device is touch sensitive, such that the television program is selected in response to a user touching an indication of the television program on the second display device. Saitoh discloses a system that has a touch panel operating section including a display device for displaying an image of a plurality of operation keys thereon and an operation detecting device for detecting when one of the operation keys on the display device is depressed. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the touch-screen capability into the system of Darbee, in order to allow for more straight-forward selection of programs and the ability for the user to interact directly with the program guide.

With regards to claim 35, Darbee teaches all of that which is discussed above with regards to claim 32. Darbee does not expressly disclose a display device being touch sensitive, such that the television program is selected in response to a user touching an indication of the television program on the display device. Saitoh discloses a system that has a touch panel operating section including a display device for displaying an image of a plurality of operation keys thereon and an operation detecting device for detecting when one of the operation keys on the display device is depressed. It would have been obvious to one of ordinary skill in the art at the time of the invention

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to include the touch-screen capability into the system of Darbee, in order to allow for more straight-forward selection of programs and the ability for the user to interact directly with the program guide.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael R Shannon whose telephone number is 703-305-6955. The examiner can normally be reached on M-F 7:30-5:00, alternate Friday's off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 703-305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael R Shannon
Examiner
Art Unit 2614

Michael R Shannon
September 28, 2004


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